

Amendment and Response  
Serial No.: 09/677,805  
Confirmation No.: 3624  
Filed: 2 October 2000  
For: SAMPLE PROCESSING APPARATUS, METHODS AND SYSTEMS

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### Remarks

The Office Action mailed 8 March 2004 has been received and reviewed. Claim 44 has been amended, leaving claims 6-8, 13, and 16-49 pending in the application. Reconsideration and withdrawal of the rejections are respectfully requested.

### Allowable Subject Matter

Applicants note that claims 21-43 have been indicated as allowable.

### Examiner Interview Summary

Applicants thank the Examiner for the courtesy extended during a telephone interview between Applicants' Representative, Kevin W. Raasch, and Examiner Brian R. Gordon on 23 February 2004. Claims 6, 13, 16, 20, and 44 and the existing 112 issues were discussed. The Examiner proposed amendments to the claims in order to overcome the 112 issues.

### Amended Claims 20 and 44

Applicants have amended claims 20 and 44 to insert the word "of" in lines 9 and 8 (respectively) of each claim as presented above. Applicants submit that this amendment is cosmetic in nature only and does not narrow the scope of either of the claims in any manner. Entry and consideration of these amendments are respectfully requested.

### The 35 U.S.C. §112, Second Paragraph, Rejection

The Examiner rejected claims 6-8, 13, 16-20, and 44-49 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner alleged that claims 6, 13, 16, 20, and 44 do not clearly indicate where and how the sample is processed. Proposed claims were provided to address this rejection.

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Applicants appreciate the proposed claims that were provided by the Examiner to address the issues raised. After review and analysis, however, Applicants respectfully submit that claims 6-8, 13, 16-20 and 44-49 do meet the requirements of 35 U.S.C. § 112, second paragraph.

The claims at issue recite an apparatus (claims 6, 13, 16, and 20) or a system (claim 44). The rejection under § 112 is, however, based on questions relating to methods of using the claimed apparatus or system. In particular, it is asserted that "the claims do not particularly point out the relationship and function of the elements in reference to the sample materials." Office Action, p. 3.

Applicants respectfully note, however, that the claims do not recite "sample materials." In other words, the rejection is based on a feature (sample material) that is not recited in the claims. To require the claims to recite sample materials and how or where they are processed goes beyond the scope of the claims at issue and is not a proper requirement under § 112, second paragraph.

For at least the above reason, Applicants respectfully submit that claims 6-8, 13, 16-20, and 44-49 do meet the requirements of § 112, second paragraph. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

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**Summary**

It is respectfully submitted that the pending claims 6-8, 13, and 16-49 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for  
BEDINGHAM et al.

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8 JULY 2004  
Date

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**CERTIFICATE UNDER 37 CFR §1.8:**

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 8th day of July, 2004, at 12:31 p.m. (Central Time).

By: Rachel Gagliardi-Graham  
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